



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 2, 1996

Ms. Barbara Elliott-Roberts
City Attorney
Legal Department
City of Galveston
PO Box 779
Galveston, Texas 77553-0779

OR96-0477

Dear Ms. Roberts:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 37603.

The City of Galveston (the "city") received an open records request for, among other things, the records of a city council member's real estate transactions with the city's Housing Development Program. You state that you have released to the requestor all of the requested information except for one sentence contained in a description of a certain private development company's board of directors.¹ You explain that the sentence the city wishes to withhold was inadvertently included in this document by a private consultant that the company had hired to assist it with the grant application process. You contend that the information at issue comes within the protection of common-law privacy and thus must be withheld from the public pursuant to section 552.101 of the Government Code.

Section 552.101 protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information coming within the common-law right to privacy. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to


¹You explain that the description of the board of directors' personal and professional backgrounds must be submitted to the federal Housing and Urban Development agency through the city in connection with applications for grant funds.

the public. *Id.* at 683-85. *See generally* Open Records Decision Nos. 343 (1982), 262 (1980).

Based on your representation that the information at issue was in fact inadvertently included in the record before us, we conclude that it is of a sufficiently intimate or embarrassing nature so as to be protected by common-law privacy. The city therefore must withhold this information from the public pursuant to section 552.101 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script, reading "Loretta DeHay".

Loretta DeHay
Assistant Attorney General
Open Records Division

LRD/RWP/ch

Ref.: ID# 37603

Enclosure: Submitted document

cc: Chris Williams, Reporter
Galveston County Daily News
P.O. Box 628
Galveston, Texas 77553
(w/o enclosures)